

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2
3 In the Matter of

4 **RICHARD D. DAVIS, M.D.**

5 Holder of License No. **29315**
6 For the Practice of Allopathic Medicine
7 In the State of Arizona.

Case No. **NO. 08A-29315-MDX**

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER
(Revocation Of License)**

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9 On December 3, 2008 this matter came before the Arizona Medical Board ("Board")
10 for oral argument and consideration of the Administrative Law Judge (ALJ) Thomas
11 Shedden's proposed Findings of Fact and Conclusions of Law and Recommended Order.
12 Richard D. Davis, M.D., ("Respondent") was notified of the Board's intent to consider this
13 matter on the aforementioned date at the Board's public meeting. Respondent did not
14 appear. Marki Stewart, special counsel for the Arizona Attorney General's Office
15 appeared on behalf of the State. Chris Munns, Assistant Attorney General of Solicitor
16 General's Division of the Attorney General's Office, was present to provide independent
17 legal advice to the Board.

18 The Board, having considered the ALJ's report and the entire record in this matter
19 hereby issues the following Findings of Fact, Conclusion of Law and Order.
20

21 **FINDINGS OF FACT**

- 22 1. The Arizona Medical Board ("Board") is the duly constituted authority for licensing
23 and regulating the practice of allopathic medicine in the State of Arizona.
24 2. Richard D. Davis, M.D. is the holder of License No. 29315 issued by the Board for
25 the practice of allopathic medicine in Arizona.

1 3. Dr. Davis pleaded guilty to, and was convicted of, Possession of Sexually Exploitive
2 Images of Minors in Interstate Commerce (18 U.S.C. § 2252(a)(4)(B)) and Forfeiture (18
3 U.S.C. § 2253(a)(1) and (a)(3)) See Exhibit 2.

4 4. On July 20, 2005, Dr. Davis entered a Stipulation by which his Idaho license to
5 practice medicine and surgery, License No. M-3476, was revoked based on his conviction
6 under 18 U.S.C. § 2252(a)(4)(B). See Exhibit 3.

7 5. On March 24, 2006, the Board of Medical Examiners for the State of Montana
8 issued a Final Order of Default in which it revoked Dr. Davis's Montana Medical License #
9 9688. See Exhibit 4.

10 6. On August 4, 2008 the Board issued a Complaint and Notice of Hearing setting this
11 matter for hearing at 9:00 a.m. September 19, 2008.

12 7. No representative appeared for Dr. Davis at the scheduled time and, after a 15
13 minute grace period the Administrative Law Judge convened the hearing in his absence.

14 8. The Board presented the testimony Victoria Kamm and had 4 exhibits entered into
15 evidence.

16 9. Ms. Kamm was formerly employed by the Board as an investigator and was the
17 Board's investigator with respect to the instant matter. Ms. Kamm is now an investigator for
18 the Arizona Board of Psychologist Examiners.

19 10. On at least 4 occasions between April 2004 and January 2005, Dr. Davis, using
20 various aliases, arranged to purchase sexually graphic videos involving girls between the
21 ages of 10 and 14, one of which involved a 10-year old at a doctor's office. In all four
22 instances, Dr. Davis had responded to advertisements placed by undercover investigators
23 working for the United States Postal Service or Immigrations Customs Enforcement. Dr.
24 Davis also agreed to trade sexually graphic videos/photographs of teenage girls and sent a
25 CD containing such to an undercover agent. See Exhibit 1.

CONCLUSIONS OF LAW

23 1. The Board has jurisdiction over Respondent and the subject matter in this case.

24 2. The Board has the burden of persuasion. A.R.S. § 41-1092.07(G)(2).

25 3. The burden of proof on all issues that of the preponderance of the evidence. A.A.C.
R2-19-119(A).

1 4. A preponderance of the evidence is "[e]vidence which is of greater weight or more
2 convincing than the evidence which is offered in opposition to it; that is, evidence which as
3 a whole shows that the fact sought to be proved is more probable than not." BLACK'S LAW
4 DICTIONARY 1182 (6th ed. 1990).

5 5. The preponderance of evidence shows that Dr. Davis violated A.R.S. §§ 32-
6 1401(27)(d) and (27)(o), which violations constitute unprofessional conduct. Consequently
7 discipline against his license is appropriate. See A.R.S. § 32-1451(M).

8 6. The Board argues that revocation is appropriate because Dr. Davis's
9 unprofessional conduct is egregious and demonstrates that he is not deserving of trust,
10 particularly with respect to issues of modesty and privacy. The evidence supports the
11 Board's position.

12 ORDER

13 Based on the foregoing, the Board revokes License No. 29315 for the practice of
14 allopathic medicine previously issued to Richard D. Davis.

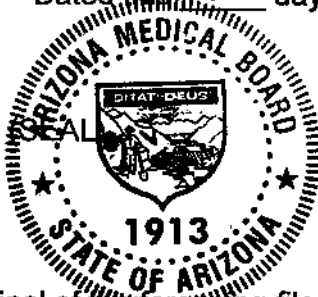
15 Respondent shall reimburse costs of the administrative hearing to the Board
16 pursuant to A.R.S. §§ 32-1451(M) and 41-1007.

17 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

18 Respondent is hereby notified that he has the right to petition for a rehearing or review by
19 filing a petition with the Board's Executive Director within thirty (30) days after service of
20 this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for
21 granting a rehearing. A.C.C. R4-16-102. Service of this order is effective five (5) days
22 after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes
23 effective thirty-five (35) days after it is mailed to Respondent.

24 Respondent is further notified that the filing of a motion for rehearing is required to
25 preserve any rights of appeal to the Superior Court.

1 Dated this 4TH day of December, 2008.



ARIZONA MEDICAL BOARD

By: 

Lisa Wynn
Executive Director

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6 Original of the foregoing filed this
4TH day of December, 2008, with:

7 Arizona Medical Board
8 9545 East Doubletree Ranch Road
9 Scottsdale, AZ 85258

10 EXECUTED Copy of the foregoing
11 Mailed by Certified Mail this
4TH day of December, 2008, to:

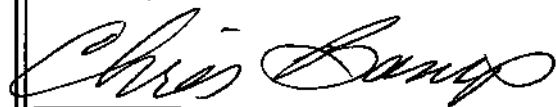
12 Richard D. Davis, M.D.
13 (address of record)

14 COPY OF THE FOREGOING MAILED
this 4TH day of December, 2008:

15 Cliff J. Vanell, Director
16 Office of Administrative Hearings
17 1400 W. Washington, Ste 101
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24 

25 Secretary